DMC/DC/F.14/Comp.3552/2/2024/ 02nd April, 2024

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Shri Mohammed Afsar Hussain s/o Shri Mohd. Ehsan Milan r/o Ward No.43, Akash Puram, Pilibhit by Pass Road, Bareilly, Behind Flora Garden, Bareilly Uttar Pradesh-243005 alleging medical negligence on the part of Dr. Varun Gogia of I Clinix 27/171, Vikram Vihar, Near Moolchand Metro Station, Lajpat Nagar-IV, New Delhi-110024, in the treatment of the complainant.

The Order of the Disciplinary Committee dated 14th March, 2024 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Shri Mohammed Afsar Hussain s/o Shri Mohd. Ehsan Milan r/o Ward No.43, Akash Puram, Pilibhit by Pass Road, Bareilly, Behind Flora Garden, Bareilly Uttar Pradesh-243005 alleging medical negligence on the part of Dr. Varun Gogia of I Clinix 27/171, Vikram Vihar, Near Moolchand Metro Station, Lajpat Nagar-IV, New Delhi-110024, in the treatment of the complainant.

The Disciplinary Committee perused the complaint, written statement of Dr. Varun Gogia, Director, I Clinix and written submission of Dr. Varun Gogia, copy of medical records of I Clinix and other documents on record.

The Disciplinary Committee noted that the complainant Shri Mohammed Afsar Hussain failed to appear before the Disciplinary Committee, inspite of notice.

In the interest of justice, the Disciplinary Committee decided to proceed with the matter in order to determine it on merits.

Dr. Varun Gogia, Director, I Clinix was heard in person.

It is noted that as per the complainant it is averred that from year 2017 he was facing issues with both of his eyes and later he was diagnosed with cataract in both of eyes. He was advised to get the cloudy lenses replaced with a clear and artificial lens for better quality of life. His family were looking for good doctors/hospitals to get his cloudy lenses replaced with clear artificial lenses who were competent to perform the surgery with due care and diligence. He through online google search searched for doctors to perform surgery and found PRYSTINE CARE advertisement and contacted Prystine Care for surgery but it seems that they are doing marketing for cataract operation only. Mr. Gaurav of Prystine Care suggested that for surgery he should go to Dr.Varun Gogia who is Director of I-Clinix as it is big hospital and has good name. He, after telephonic conversation with Mr. Gaurav (Prystine), along with his family visited Dr. Varun Gogia at his hospital l-Clinix and conversed with him and his staff doctors and Dr. Varun Gogia convinced him by saying that he is a good doctor/surgeon and in his hospital he is performing these type of operation daily in large number and will perform the surgery with due care and under a reasonable amount. Dr. Varun Gogia quoted fees of Rs.33,000/-per eye for performing surgery. That same was paid to him. Insurance company only approved Rs.30,000/- for operation and rest Rs.3,000/-was paid to Dr. Varun Gogia in cash as he said he would use better lens thus, the amount Rs.33,000/-paid to him. Dr. Varun Gogia suggested that the lens of Carl Zeiss Meditec should be used as the same according to him was giving good results. Putting his faith in him he agreed with his terms and suggestion. He along with his family decided to get surgery done. Surgery was performed by Dr. Varun Gogia on first eye on 12.08.2021 and issued a discharge summary to him on 12.08.2021 which contained details regarding the operation, medicine and details of lens used in the surgery. The discharge summary had information regarding the lens used and same is as under: REF: CT LUCIA 601PY , D +20.0, SN 3S1901110317, OT=13.0, O body=6.0, Carl Zeiss Meditec AG 2021-07. That the second surgery of his was performed on 23.08.2021 by Dr Varun Gogia and provided a Discharge Summary which contained details regarding the operation, medicine and details of lens used in the surgery. On 23.08.2021 his son was accompaining me and his staff gave him a Discharge Summary which had following details regarding the lens: REF: CT LUCIA 601 PY D: + 19.5, SN- 3S1901000140, OT=13.0, O body=6.0. His son asked them why there is no date mentioned regarding the expiry of lens from him and his staff, he and his staff hurriedly took the Discharge summary from his son. Before handing over the summary, his son has taken snapshot of the summary by mobile. Afterward they gave him another Discharge Summary which had completely different details regarding the lens details of the second discharge summary is as follows: REF CT LUClA 601 PY, D:+19.5, SN 3S1904450002, OT=13.0, O body=6.0,Carl Zesis Meditec AG 2021-11. That when his son asked Dr.Varun Gogia about the change in the details of Discharge Summary and information of lens he did not give any satisfactory answer. After one month of surgery he began facing major problem in both of his eyes as his eyes went red, puffy and continuous tears were coming from them. He also felt scaring sensation in his eyes and his vision also got affected. Then he contacted Dr. Varun Gogia regarding the problems he was facing to which he did not paid any heed. He also queried regarding the expiry information of eye lenses to which he replied that lenses were not expired. That he in month of October 2021 started checking the Discharge Summary and found that lens dated 12.08.2021 expired in the month of July. And also found that the first Discharge Summary issued by Dr. Varun Gogia to him on 23.08.2021 did not had expiry date and he deliberately changed the Discharge Summary which was showing the expiry date of lens in month of November. That he in order to know the expiry of lens used in surgery by Dr. Varun Gogia, telephonically conversed with the team of Carl Zeiss Meditec and wrote mail dated 10.02.2022 and asked about the Authenticity/expiration of IOL lenses used by him in his eyes. That Carl Zeiss Meditec replied to mail dated 10.02.2022 to him via mail dated 25.02.2022 and informed that “As per SAP expiry of both lenses sr. no.3S19011100317 and 3S1901000140 were 31.07.2021”. That he tried contacting Dr. Varun Gogia and asked why didhe put expiry date lenses in his eyes to which he said they are not harmful to his eyes and vision, but he was facing complication. Due to his act of negligence he and his family are fearing for his eye sight. Dr. Varun Gogia has cheated him and failed to discharge his professional duty. That from above mentioned facts and his actions clearly show that he did not took proper care of him, failed to discharge his duties and thus, committed medical negligence. Kindly, take appropriate legal action against him for professional misconduct and book him for medical negligence.

Dr. Varun Gogia, Director, I Clinix stated that the complainant Mohd. Afsar Hussain first visited I Clinix on 12-Aug-2021, with complaints of Blurring of Vision. As per their records he submitted his address as D5-402, Supertech, Ecovillage-l, Sec 1, Greater Noida UP. The address mentioned in his complaint submitted to the Council is completely different. Complainant was diagnosed with both eyes IMSC. Accordingly, he was advised for Cataract Surgery as per best medical advice on the matter. Complainant did not have any complications, his blood pressure and Diabetes test were done and were found to be normal. On the same day, Cataract surgery for his Left eye was performed successfully. Medications and care factors were explained to him properly as mentioned in the Discharge Summary dated 12-Aug-2021, Serial Number of the lens used in his Left eye is 3S1902780198 with expiry date of 30th September, 2021. However, due to the inadvertent mistake of clerical staff, a wrong sticker of an expired lens was affixed on the Discharge Summary copy of the complainant by mistake. The expired lens was already discarded and only the sticker was somehow left in the office. After two days i.e. 14-Aug-2021, the complainant visited I Clinix for follow up after cataract. His left eye was stable and he did not report any problems. He also did not notice the mistake in sticker on his Discharge Summary dated 12-Aug-2021 and never pointed out the same to their staff. On 23-Aug-2021, on prior appointment fixed, the complainant visited him for his Right eye cataract surgery. Again, cataract surgery was performed successfully and medications and care factors were explained to him properly as mentioned in the Discharge Summary dated 23-Aug-2021. He was suggested to visit on 26-Aug-2021 for follow up. Serial number of the lens used in his Right eye is 3S1904450002 with expiry date of 30- Nov-2021 and the same was put on his Discharge Summary dated 23-Aug-2021. After three days i.e. on 26-Aug-2021, the complainant visited I Clinix for follow up after Cataract. Both his eyes were stable and he did not report any problems. Again, till that day, he had neither noticed nor pointed out about the incorrect lens sticker put on his earlier Discharge Summary dated 12-Aug-2021. That next month i.e. on 14-Sept-2021, the complainant again visited I Clinix for his follow up after Cataract. Both his eyes were stable and he did not report any problems. Again, till that day, he had neither noticed nor pointed out about the incorrect lens sticker put on. his earlier Discharge Summary dated 12-Aug-2021. The story of the complainant regarding having issue in his eyes within one month of cataract surgery is completely false and concocted, as is evidently clear from the fact that till his visit on 14-Sept-2021 complainant did not mention anything about problem in his eyes and neither about the wrong sticker mistakenly put up on his earlier Discharge Summary dated 12-Aug-2021. 13. For the first time in the month of March-2022 he called him and mentioned about the expiry date of the sticker on his Discharge Summary. The matter was checked internally from their end and it was found that an incorrect sticker was by mistake put on the Discharge Summary dated 12-Aug-2021 by clerical staff. He informed the complainant that it was a clerical mistake of administrative staff and there is nothing to worry, he can visit anytime and take the details of the actual lens used in his surgery which was not expired. However, the Complainant started threatening him with legal action and started making harassment calls asking for money. He requested him to come to I Clinix anytime and offered a completely free comprehensive checkup of his eyes, but the complainant insisted on asking for money as compensation, which was refused by him. If the complainant had any problems in his eyes - there were ample opportunities for complainant to consult him and even visit for his follow up checkup anytime. In reality, complainant never had any problems with the surgery of his eyes, and had not even noticed the mistake committed by clerical staff in putting the wrong sticker, till in March this year when he was misguided by someone and he started threatening him. He is a well-qualified doctor - MBBS (AIIMS), MD (AIIMS), with experience of 15 years in surgery having successfully operated on thousands of patients. The mistake of pasting the wrong sticker lens was nothing but an inadvertent, unintentional clerical mistake by the administrative staff of l Clinix, and does not, in any way, fall within the contours of medical negligence. The present complaint is nothing but an afterthought, a calculated and vicious attack on the integrity of the doctor community. The only agenda of the complainant is to extract money from the doctor/institution in the garb of medical negligence when in reality he has not suffered any real loss or medical problem. Complainant may get himself checked from any well-known Ophthalmologist of repute in order to establish in front of the Medical Council whether he has any kind of problem related to the cataract surgery conducted by him. I Clinix will be happy to bear the expenses of any such investigation or checkup, as the Medical Council may deem fit. He is committed to the values of his profession and all the staff at I Clinix is willing and ready to support any investigation, inspection of records and facts in regard to this fictitious and malicious complaint. It is accordingly requested that the present complaint be viewed in the correct perception. The clerical mistake of administrative staff is not denied as the same may occur at any institution, even after taking due care, sometimes administrative mistakes may happen, but alleging serious charges of medical negligence by the complainant is grossly an attempt to tarnish the image of the doctor and blackmail tactics for extracting money by claiming false compensation.

Dr. Varun Gogia further in his written submission stated that the first surgery dated 12th August, 2021 was successful and the patient had 6/6 vision. There had been a mistake by clerical staff in putting up a wrong implant sticker (which were due for disposal) on patient Discharge Card. As per their records (which have been presented) IOL implant was not expired and had expiry of September, 2021. Further in regard to the second surgery dated 23rd August, 2021 was also successful and the patient had 6/6 vision. The patient is lying and had put up wrong records. According to their records, expiry of IOL was in November, 2021 and same was given to the patient and had also been submitted to Delhi Medical council. Same Discharge Card had also been submitted from patient’s side. The patient had attached two different discharges out of which one in wrong.

In light of the above, Disciplinary Committee observes that the complainant Shri Mohd. Aftar Hussain was first seen by Dr Varun Gogia in his clinic on 12th August, 2021 and diagnosed to be having immature senile cataract both eyes, left more than right. After ascertaining that he was nondiabetic and having a Blood Pressure of 138/98 mm of Hg, the complainant underwent an uncomplicated intraocular lens (IOL) implant surgery on that very day .The IOL used was of Carl Zeiss Meditch make having the specifications as CT LUCIA 601PY D:+ 20 D with serial no. (SN)3519011100317. The immediate postoperative period was uneventful. On 23rd August, 2021, the complainant underwent an uneventful IOL surgery in the right eye and again Carl Zeiss meditec PCLOL was implanted bearing the details as CT LUCIA601PYD:+19.5 SN #S1901000140. Incidentally, the preoperative blood process recorded was 140/90 mm of Hg. The complainant as per records followed post operatively with Dr. Varun Gogia till 14th September, 2021 and that was uneventful with good vision in both eyes.

Sometimes in March 2022, the complainant came back to Dr. Varun Gogia alleging that the IOLs put in his eyes were of expiry dates, i.e., expired in July 2021 whereas the surgeries in both eyes happened in Aug 2021. It was also alleged that the old (original) discharge slips were taken back and replaced with new discharge set of slips bearing IOL stickers with different serial numbers having expiry dates of 30.09.2021 for left eye IOL and 30.11.2021 of the right eye IOL. The comparative details of the IOLs are as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Date of surgery  | Eye | Original IOL S. No.  | Expiry Date | Changer IOLSerial No.  | Expiry |
| 12.08.2021 | L/E | 3519011100317 | 31.07.2021 | 351902780198 | 30.09.2021 |
| 23.08.2021 | R/E | 351901000140 | 31.07.2021 | 351904450002 | 30.11.2021 |

The explanation given by Dr. Varun Gogia as far as the IOL status in the Left eye is concerned was that due to clerical mistake, a wrong sticker of an expired IOL was put inadvertently whereas the Left eye had been implanted with a legitimate IOL having an Date Of Expiry as 30/9/21. As far as the status of implanting expired IOL in Right Eye is concerned, Dr. Varun Gogia replied that the complainant is lying and no such IOL as alleged by the complainant was implanted. However, he has not been able to give any plausible reason regarding the IOL sticker bearing S.NO 351901000140 pasted on the first discharge slip dated 23rd August, 2021.

The follow ups available as per the records annexed, is till Feb 22, where in both the eyes were having normal visual acuity and there were no IOL related complications observed. In conclusion it is observed that though both the eyes have as yet behaved normally in the post operative period, nevertheless:

1. Expired IOLs were implanted in both the eyes of the patient.

2. The original discharge slips having stickers of the expired IOL details were supplanted with a fresh set of IOL detail bearing stickers.

3. The reasons forwarded for using expired IOLs are not convincing and the very act of changing the records is unethical.

In view of the findings made hereinabove, it is the decision of Disciplinary Committee that Dr. varun Gogia has acted in a manner which is unbecoming of a doctor and he thus is guilty of professional misconduct.

The Disciplinary Committee, therefore, recommends that the name of Dr. Varun Gogia (DMC Registration No. DMC/R/04624) be removed from the State Medical Register of Delhi Medical Council for a period of 90 days with a direction that he should refrain from indulging in such unethical behaviour in future.

Matter stands disposed.

Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. Satish Tyagi) (Dr. B. Ghosh)

Chairman, Delhi Medical Association, Expert Member,

Disciplinary Committee Member, Disciplinary Committee

 Disciplinary Committee

The Order of the Disciplinary Committee dated 14th March, 2024 was confirmed by the Delhi Medical Council in its meeting held on 27th March, 2024.

The Council further confirmed the punishment of removal of the name of Dr. Varun Gogia(DMC Registration No. DMC/R/04624) from the State Medical Register of Delhi Medical Council for a period of 90 days awarded by the Disciplinary Committee with a direction that he should refrain from indulging in such unethical behaviour in future.

The Council further observed that the Order directing the removal of name from the State Medical Register of Delhi Medical Council shall come into effect after 60 days from the date of the Order.

This observation is to be incorporated in the final Order to be issued. The Order of the Disciplinary Committee stands modified to this extent and the modified Order is confirmed.

 By the Order & in the name of

 Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to:-

1. Shri Mohammed Afsar Hussain, s/o Shri Mohd. Ehsan Milan, r/o Ward No.43, Akash Puram, Pilibhit by Pass Road, Bareilly, Behind Flora Garden, Bareilly, Uttar Pradesh-243005.
2. Dr. Varun Gogia, Through Medical Superintendent, I Clinix, 27/171, Vikram Vihar, Near Moolchand Metro Station, Lajpat Nagar-IV, New Delhi-110024.
3. Medical Superintendent, I Clinix, 27/171, Vikram Vihar, Near Moolchand Metro Station, Lajpat Nagar-IV, New Delhi-110024.

1. Directorate General of Health Services, Nursing Homes Cell, Govt. of NCT of Delhi, 3rd Floor, DGD Building, S-1, School Block, Shakarpur, Delhi-110092-w.r.t. letter No. F.23/Comp./302/SED/DGHS/NHC/2023/1993 dated 16.08.2023-**for information & necessary action**.
2. National Medical Commission, Pocket-14, Phase1, Sector-8 Dwarka, New Delhi-110077-**for information & necessary action.**

 (Dr. Girish Tyagi)

 Secretary